

**APPENDIX A:**

**AC34 FEDERAL REGULATIONS**

## **Appendix A. Other Federal Regulations, Laws, and Policies**

The Federal Agency Team is also governed by the following laws, regulations, and management plans relevant to the AC34.

### ***National Parks Omnibus Management Act of 1998***

The *National Parks Omnibus Management Act* (16 USC 5901 et seq.) underscores NEPA in that both are fundamental to NPS park management decisions. Both acts provide direction for articulating and connecting resource management decisions to the analysis of impacts, using appropriate technical and scientific information. Both also recognize that such data may not be readily available, so they provide alternative options for resource impact analysis should this be the case. Specifically, the *National Parks Omnibus Management Act* directs the NPS to use the findings of science and the analyses of scientifically trained resource specialists in decision making. It also provides guidance for the issuance of commercial use authorizations and concessions contracts.

### ***Endangered Species Act of 1973, as Amended***

This act requires all federal agencies to consult with the Secretary of the Interior on all projects and proposals having potential impacts on federally threatened and endangered plants and animals and to implement conservation measures proposed by the agency and agreed to by the U.S. Fish and Wildlife (generally terrestrial or freshwater species) or National Marine Fisheries Service (generally marine species).

### ***Migratory Bird Treaty Act and Executive Order 13186***

The *Migratory Bird Treaty Act of 1918* makes it unlawful to kill, capture, buy, sell, import, or export migratory birds, eggs, feathers, or other parts. Executive Order 13186, issued in January 2001, restated the value of migratory birds and directed agencies to develop and implement memoranda of understanding with the USFWS to protect them. The NPS memorandum of understanding remains in draft form, but would require park units to restore and enhance migratory bird habitat and support conservation of migratory birds.

### ***Marine Mammal Protection Act (MMPA) of 1972***

All marine mammals are protected under the MMPA. The MMPA prohibits, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. In 1994, the MMPA was amended to include certain exceptions to the take prohibitions.

### *The National Historic Preservation Act of 1966, as Amended*

Section 106 of the NHPA requires that federal agencies consider the effects of their undertakings on properties listed or potentially eligible for listing on the National Register of Historic Places (NRHP). All actions affecting the parks' cultural resources must comply with this legislation.

### *Coastal Zone Management Act*

The *Coastal Zone Management Act* (CZMA) was enacted as a plan to manage coastal areas. The CZMA encourages state, local, regional, and federal agencies to cooperate when implementing their coastal zone programs. The CZMA requires a balance between the protection of resources and economic interests within the coastal zone. Each state may develop a coastal zone management plan, which defines allowed land and water uses within the coastal zone.

### *Code of Federal Regulations, Title 36, Volume 1*

These regulations provide “for the proper use, management, government, and protection of persons, property, and natural and cultural resources within areas under the jurisdiction of the National Park Service.” The sections below are specifically called out as relevant to this project.

**36 CFR 2.1** covers the preservation of natural, cultural, and archeological resources. The following is prohibited under this section: possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state living or dead wildlife, plants, or cultural or archeological resources; walking on, climbing, entering, etc. an archeological or cultural resource; or possessing, destroying, injuring, defacing, removing, digging, or disturbing a structure or its furnishing or fixtures, or other cultural or archeological resources.

**36 CFR 2.2** covers wildlife protection. The following is prohibited under this section: the taking of wildlife; the feeding, touching, teasing, frightening, or intentional disturbing of wildlife nesting, breeding, or other activities; and possessing unlawfully taken wildlife or portions thereof.

**36 CFR 2.12** covers audio disturbances. The following is prohibited: Operating motorized equipment or machinery such as an electric generating plant, motor vehicle, motorized toy, or an audio device, such as a radio, television set, tape deck or musical instrument, in a manner: (i) That exceeds a noise level of 60 decibels measured on the A-weighted scale at 50 feet; or, if below that level, nevertheless; (ii) makes noise which is unreasonable, considering the nature and purpose of the actor's conduct, location, time of day or night, purpose for which the area was established, impact on park users, and other factors that would govern the conduct of a reasonably prudent person under the circumstances, or ; operating a public address system, except in connection with a public gathering or special event for which a permit has been issued pursuant to § 2.50 or § 2.51.

**36 CFR 2.14** covers sanitation and refuse. The following is prohibited: ... (6) Polluting or contaminating park area waters or water courses...

**36 CFR 2.50** covers special events. Sports events, public spectator attractions, ceremonies, and other similar events are allowed provided there is a meaningful association between the park area and the events, and the observance contributes to visitor understanding of the significance of the park area, and a

permit therefore has been issued by the superintendent. A permit shall be denied if such activities would: Cause injury or damage to park resources; or (2) Be contrary to the purposes for which the natural, historic, development and special use zones were established; or unreasonably impair the atmosphere of peace and tranquility maintained in wilderness, natural, historic, or commemorative zones.(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the National Park Service; or (4) Substantially impair the operation of public use facilities or services of National Park Service concessioners or contractors; or (5) Present a clear and present danger to the public health and safety; or (6) Result in significant conflict with other existing uses.

In addition, each park superintendent may address other localized actions and regulations that are needed to protect park resources and to insure visitor enjoyment within a local compendium of regulations. GGNRA publishes an annual superintendent compendium which establishes reasonable schedules for visiting hours, impose public use limits, and close park areas for all public use or specific use for GGNRA - Area A.